# IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

## SPECIAL CIVIL APPLICATION No. 786 of 2006

**For Approval and Signature:**

**HONOURABLE MR.JUSTICE KSHITIJ R.VYAS**

**HONOURABLE MR.JUSTICE AKSHAY H.MEHTA**

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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**PRAHLADBHAI SHAMBHUBHAI CHAVDA & 2 - Petitioner(s)**

**Versus**

**SPL. LAND ACQUISITION OFFICER - Respondent(s)**

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**Appearance :**

MR NITIN M AMIN for Petitioner(s) : 1 - 3.
MR SP HASURKAR A.G.P. for Respondent(s) : 1,
NOTICE SERVED BY DS for Respondent(s) : 1,

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**CORAM : HONOURABLE MR.JUSTICE KSHITIJ R.VYAS**

**and**

**HONOURABLE MR.JUSTICE AKSHAY H.MEHTA**

**Date : 14/02/2006**

**ORAL JUDGMENT**

**(Per : HONOURABLE MR.JUSTICE AKSHAY H.MEHTA)**

1. Rule. Mr. S.P. Hasurkar learned A.G.P., waives service of rule on behalf of the respondent. At the request of the learned advocates for the

respective parties, the matter is taken up for final disposal today itself.

2. The sole grievance of the petitioners is that though they had submitted application under Section 28A of the Land Acquisition Act ["the Act" for short] to the respondent on 28th May, 2003, the respondent has not taken any decision on the said application till this date. It is, therefore, prayed that appropriate direction be given to the respondent to decide the application of the petitioners.

3. It is the say of the petitioners that their lands were acquired under the provisions of the Act for the Narmada Project. After completion of the proceedings, award was made by the respondent. The rate of compensation determined by the respondent was inadequate. However, the petitioners could not approach the Court by submitting application under Section 18 of the Act to the Collector for making a Reference for enhancement of the compensation. It is their say that there were other land owners who were similarly situated and whose lands were acquired in the same proceedings, preferred Reference under Section 18 of the Act and the Reference Court decided the Reference Cases on 17th April, 2003 and enhanced the rate of compensation. Having been aggrieved by the said decision of the Reference Court, the Government preferred appeal being First Appeals No.1239 of 2005 to 1250 of 2005 before this Court, but the same were dismissed by this Court by judgment dated 10th May, 2005. Thereafter, the petitioners submitted an applications under Section 28A of the Act on 28th May, 2003. According to them, the same have not yet been decided.

4. We have perused the record of the petition. We have also heard Mr. Nitin Amin learned advocate for the petitioners and Mr. S.P. Hasurkar learned A.G.P., for the respondent. It appears that since the application under

Section 28A of the Act is not decided by the respondent, the petitioners on 27th September, 2005 even served notice through their advocate calling upon the respondent to decide it. It also appears that the said notice has not been replied to. No counter to this petition has been filed. It, therefore, becomes clear that for no obvious reasons, the application has been kept pending for almost two and half years. In the circumstances, it is just and proper that appropriate direction be issued to the respondent to decide the same. We, therefore, direct the respondent to decide the application under Section 28A filed by the petitioners on or before 31st March, 2006 and intimate the decision to the petitioners within one week from the decision.

5. With this direction, the petition is allowed. Rule is made absolute to the aforesaid extent with no order as to costs.

[Kshitij R. Vyas, J.]

[Akshay H. Mehta, J.]

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